IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	:	Customer Number: 46320
	:	
Katsuhisa KATAOKA	:	Confirmation Number: 9826
	:	
Application No.: 10/632,178	:	Group Art Unit: 2194
	:	
Filed: July 31, 2003	:	Examiner: N. Price
	:	
For: INTERFACE APPARATUS FOR STRUCTURED DOCUMENTS		

REPLY BRIEF

Mail Stop Appeal Brief - Patents
Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is submitted under 37 C.F.R. § 41.41 in response to the EXAMINER'S

ANSWER dated April 15, 2008.

The Examiner's response to Appellant's arguments submitted in the Appeal Brief of

February 19, 2008, raises additional issues and underscores the factual and legal shortcomings in

the Examiner's rejection.   In response, Appellant relies upon the arguments presented in the

Appeal Brief of February 19, 2008, and the arguments set forth below.

1   **REMARKS**

2

3   Prior to addressing the individual rejections, Appellant notes that upon comparing the

4   statement of the rejection found on pages 4-8 of the Second Office Action with the statement of

5   the rejection found on pages 4-8 of the Examiner's Answer, Appellant have been unable to find

6   any substantially differences. Thus, Appellant proceeds on the basis that the Examiner's only

7   response to Appellant's arguments presented in the Appeal Brief is found on pages 8-10 of the

8   Examiner's Answer.

9

10   Claim 19

11   On pages 6-8 of the Appeal Brief, Appellant presented arguments that even if Ayyagari

12   and Patel were combined the claimed invention would not result. The Examiner's response to

13   these arguments is found on pages 8 and 9 of the Examiner's Answer. After discussing the

14   teachings of Ayyagari, the Examiner asserted the following in the first full paragraph on page 9

15   of the Examiner's Answer:

16   Ayyagari does teach the use of stylesheets, but does not state the processing of the
17   documents or use of stylesheets does not involve event set information. Simply because both
18   references teach use of stylesheets and one reference is silent with respect to event set information
19   does not necessarily mean the combination of references fails to teach event set information as
20   claimed. Patel is relied upon to provide greater detail as to what can be involved in processing a
21   document. Specifically, Patel teaches obtaining event set information by processing the documents
22   by teaching:
23   The use of the SAX compliment interface 32 provides the parser 30 with an
24   event based interface. As such, the SAX interface 32 utilizes DTD 62 and a
25   markup language document 60 to breakdown the internal structure of the
26   markup language document 60 into a series of linear events.
27   (From ¶0035) Therefore, the combination of references teaches performing a lexical analysis of
28   the document to obtain event set information, which is stored in, and can be retrieved from, a
29   cache as claimed.
30
31   The Examiner's first two sentences infer a logical fallacy. Specifically, the Examiner appears to

32   be inferring that because Ayyagari is silent as to using event set information, this silence does

1   not mean that event set information is not being used. The Examiner then infers that the event

2   set information could be involved.

3

4   As to the Examiner's citation, reference is made to Fig. 3 of Ayyagari. As discussed in

5   paragraph [0035], the SAX compliment interface 32 uses a DTD 62 to break down the markup

6   language document 60 into a series of linear events, which the Examiner is apparently asserting

7   corresponds to the claimed event set information. As such, Patel does not teach using the

8   stylesheet 64 to obtain the series of linear events. Instead, as discussed in paragraph [0037], the

9   encapsulation apparatus 50 creates the document object 40 using the markup language, DTD 62,

10   and the stylesheet 64. However, this is a separate and distinct process from the generation of the

11   series of linear events. Thus, Appellant maintains that even if one having ordinary skill in the art

12   were realistically impelled to modify Ayyagari in view of Patel, the claimed invention would not

13   result.

14

15   Appellant also notes that the Examiner has not even explained how one having ordinary

16   skill in the art would have specifically modified Ayyagari in view of Patel based upon the

17   teachings of Patel. Instead, the Examiner asserts that Patel involves determining a series of

18   events in processing XML documents and that it would have been obvious to combine Ayyagari

19   with Patel because both relate to processing XML documents. However, completely absent from

20   the Examiner's analysis is how Ayyagari would be modified.

21

22   _____

1   In the paragraph spanning pages 8 and 9 of the Appeal Brief, Appellant argued that the

2   Examiner failed to establish a realistic common sense rationale to modify Ayyagari in view of

3   Patel. The Examiner's response to these arguments is found in the last full paragraph on page 9

4   of the Examiner's Answer and is reproduced below:

5   Appellant further argues that there is no motivation to combine the teachings. Examiner
6   respectfully disagrees. Ayyagari teaches caching data resulting from processing documents (see
7   citation above). Patel provides greater detail as to what actions are performed when processing
8   such documents. Therefore, one of ordinary skill in the art at the time Appellant's invention was
9   made would have been motivated to use the document processing techniques taught by Patel to
10   process documents when implementing the teachings of Ayyagari.
11
12 At the outset, Appellant notes that the Examiner has mischaracterized the Appellant's argument.

13 Appellant did not argue that there is no motivation to combine the teachings. Instead, Appellant

14 argued that the Examiner has failed to establish a realistic rationale. The Examiner's analysis

15 also fails to recognize that merely providing a rationale to combine the references is not

16 sufficient to establish obviousness. Instead, the rationale to combine the references must lead to

17 the claimed invention.

18

19   As previously argued, the Examiner's obviousness analysis is directed to generalizations.

20 However, in responding to Appellant, the Examiner yet again offers up generalizations. The

21 Examiner's assertion that "Patel provides greater detail as to what actions are performed when

22 processing such documents." Absent from the Examiner's analysis, however, is a clear

23 indication of the "greater detail" being referred to, specifically how Ayyagari would be modified

24 based upon this "greater detail," and what are the benefits of this "greater detail." Thus, the

25 Examiner's obviousness analysis continues to rely upon generalizations that do not refer to the

26 specific language of the claims.

27

1   The Examiner's alleged benefit (i.e., what would realistically impel one having ordinary

2   skill in the art to make the proposed modification) is "to process documents when implementing

3   the teachings of Ayyagari." Processing documents already occurs within Ayyagari. As such,

4   Appellant is unclear as to what additional benefit arises from the proposed modification based

5   upon Patel.

6

7   _____

8   <u>Claim 21</u>

9   On pages 9 and 10 of the Appeal Brief, Appellant presented arguments as to the

10   Examiner failing to establish that Ayyagari teaches the limitations for which the Examiner is

11   relying upon Ayyagari to teach. The Examiner's response to these arguments is found in the first

12   and second full paragraphs on page 10 of the Examiner's Answer and reproduced below:

13   Regarding claim 21, Appellant initially argues Examiner failed to address all limitations
14   of the claim. However, the rejection of claim 21 refers to the rejections of claims 19 and 20
15   regarding limitations not specifically addressed in the rejection of claim 21 (see ¶11 on page 6 of
16   Office Action mailed 17 September 2007).
17   Appellant further argues the references do not teach separate means for performing the
18   recited functionality. Examiner respectfully disagrees. It would have been apparent to one of
19   ordinary skill in the art that the functionality described by the references can be implemented in
20   software and/or hardware. The various sections of software and/or hardware implementing
21   specific portions of the functionality make up the separate means for performing the recited
22   functionality. It is not clear if Appellant is attempting to invoke 35 U.S.C. 112, sixth paragraph, or
23   what structure is being claimed if the means for language is invoking 35 U.S.C. 112, sixth
24   paragraph.
25
26   Appellant notes that these assertions by the Examiner are non-responsive to Appellant's

27   arguments. All the Examiner had to do in responding to Appellant's arguments was to identify

28   (i) the first processing means, (ii) the second processing means, and (iii) a control means for

29   determining which of the first and second processing means to delegate processing of the

30   structured document, as claimed. Despite this simple and straight-forward request, the Examiner

31   apparently declined.

1

2   Instead, in the first reproduced paragraph, the Examiner refers to the rejection of other

3   claims (i.e., claims 19 and 20). However, the Examiner's statement of rejection as to the other

4   claims do not distinguish between the claimed first and second processing means (i.e., the

5   Examiner cites to the same passages in Ayyagari for both features) and do not refer to the

6   claimed control means.

7

8   In the second reproduced paragraph, the Examiner appears to make an

9   obviousness/inherency argument that is entirely without factual support. The Examiner then

10   belatedly invokes a question as to the sixth paragraph of 35 U.S.C. § 112. Not only does the

11   Summary of the Claimed Subject Matter in the Appeal Brief clearly indicate where within

12   Appellant's specification support for the first processing means 26 and the second processing

13   means 27 can be found, the Examiner's analysis <u>ignores</u> the language of the claim. As claimed,

14   the control means determines whether to use the first processing means or the second processing

15   means. If these processing means were not separate, Appellant is unclear as to how the control

16   means could delegate the processing of the structured document to one or the other. Thus, not

17   only is the Examiner's assertions non-responsive to Appellant's prior arguments, the Examiner's

18   assertions are poorly reasoned.

19

For the reasons set forth in the Appeal Brief of February 19, 2008, and for those set forth herein, Appellant respectfully solicits the Honorable Board to reverse the Examiner's rejections under 35 U.S.C. § 103.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 09-0461, and please credit any excess fees to such deposit account.

Date: June 16, 2008

Respectfully submitted,

/Scott D. Paul/ _____
Scott D. Paul
Registration No. 42,984
Steven M. Greenberg
Registration No. 44,725
Phone: (561) 922-3845
CUSTOMER NUMBER 46320